

REMARKS

The Examiner's attention to the present application is noted with appreciation.

The Examiner rejected claims 1-8 and 10-24 under 35 U.S.C. § 102(b) as being anticipated by Keizer et al. This rejection is traversed, particularly as to Applicant's amended claims. Claims 2-26 have been canceled and new claims 27-55 are presented.

Independent claim 1 is directed to an apparatus wherein a programmable controller "is programmable exclusively through a plurality of the power delivery conductors". Keizer et al. is directed to an apparatus which turns off an appliance until a code is keyed into a keypad. Not only does Keizer et al. fail to disclose the ability to program a controller through a plurality of power delivery conductors, but Keizer et al. in fact teaches away from such ability. Those skilled in the art will readily recognize the numerous problems associated with programming a controller through power supply lines. One of the primary difficulties with such programming is due to the high voltages typically existing on a power supply line. As can be readily observed in Figs. 5 and 6 of Keizer et al., the only contact which the microcontroller has with the power delivery conductors of that invention is through relay 33 and current transformer 28. Programming of the microcontroller of Keizer et al. does not occur through the relay contacts of relay 33, nor does programming of the microcontroller occur through current transformer 28, which is used simply as a current monitoring device.

Although independent claim 1 and the dependent claims thereof are allowable over Keizer et al., because Kesier et al. fail to disclose the ability to program a controller "exclusively through a plurality of the power delivery conductors", Keizer et al. further fail to anticipate or obviate the claimed invention because Applicant's amended independent claim 1 is directed to an apparatus wherein a programmable controller is "entirely resident within either an appliance plug or a plug-in module" as claimed by Applicant. As can easily be observed in each and every one of the figures of Keizer et al., the keypad portion of the Keizer et al. controller is external to and disposed a distance from the plug or plug-in module (main body 10). As such, Kesier et al. fail to anticipate Applicant's independent claims 1, and 42, as well as dependent claims thereof, and in fact teaches away from the claimed invention.

The Examiner rejected claim 9 under 35 U.S.C. § 103 as being unpatentable over Keizer et al. in view of Johnson et al. As previously stated, claim 9 has been canceled. However, new claim 37 is presented herein and is substantially similar to previous claim 9. Although similar to previous claim 9, new claim 37 is dependent upon amended independent claim 1. Amended independent claim 1 is allowable over the combined disclosures of Keizer et al. and Johnson et al. This is because neither Keizer et al., Johnson et al., nor any combination thereof disclose a programmable controller disposed entirely within a plug or plug-in module as claimed by Applicant. The failure of Keizer et al. to disclose a programmable controller disposed entirely within a plug or plug-in module has been discussed above. Johnson et al. teach a special switch and switch cover, or alternatively, a special plug and socket. As such, neither embodiment of Johnson et al. is directed to an apparatus which has a programmable controller disposed entirely within a plug or plug-in module. Because neither alone nor together does the combination of Keizer et al. and Johnson et al. anticipate every element of Applicant's amended claims, their combination does not render obvious Applicant's independent claims 1 or 42, nor dependent claims thereof.

Not only does the combination of Keiser et al. and Johnson et al. fail to anticipate that portion of applicant's claims directed to a programmable controller disposed within a plug or plug-in module, but Keiser et al. and Johnson et al., alone and together, fail to disclose "programming the controller by applying one or more signals to two or more of the power delivery conductors" as claimed in Applicant's independent claims 1 and 42. As such, independent claims 1 and 42, as well as dependent claims thereof are allowable over the combination of Keiser et al and Johnson et al.

Finally, new independent claim 52 has been added. However, this claim is substantially similar to previous claim 23. When the Examiner rejected previous claim 23 under 35 U.S.C. § 102, the Examiner stated that Keizer et al. discloses an apparatus comprising internal electrostatic discharge protection diodes and excludes external rectification elements of a DC power supply. Please note that new claim 52 is directed to "electrostatic discharge protection diodes internal to said programmable controller and excluding rectification elements of a DC power supply external to said controller" (emphasis added). Keizer et al. discloses "a DC power supply 25, which generates the direct current (DC) voltages required

by a controller which in this embodiment comprises a microcontroller". (Col. 3, lines 31-33). This disclosure, along with schematics of figures 5 and 6 clearly show that Keizer et al. fail to use diodes internal to the programmable controller, as claimed by Applicant. As such, independent claim 52, as well as dependent claims thereof are thus allowable over Keizer et al.


In view of the above amendments and remarks, it is respectfully submitted that all grounds of rejection and objection have been avoided and/or traversed. It is believed that the case is now in condition for allowance and same is respectfully requested.

If any issues remain, or if the Examiner believes that prosecution of this application might be expedited by discussion of the issues, the Examiner is cordially invited to telephone the undersigned attorney for Applicant at the telephone number listed below.

A check for additional claim fees is attached. Authorization is given to charge payment of any additional fees required, or credit any overpayment, to Deposit Acct. 13-4213.

Respectfully submitted,

By:


Jeffrey D. Myers, Reg. No. 35,964
Direct line: (505) 998-1502

PEACOCK MYERS, P.C.
Attorneys for Applicant(s)
P.O. Box 26927
Albuquerque, New Mexico 87125-6927

Telephone: (505) 998-1500
Facsimile: (505) 243-2542

Customer No. 005179

G:\AMDS\Nemir\Nemir 496 AMD.doc